

Corps of Engineers, Northwestern Division

**SECTION 208 WRDA  
STATUS AND IMPLEMENTATION PLAN**

**I. BACKGROUND AND POLICY.**

Discussions with tribes in Northwestern Division have demonstrated the need for a Corps-wide authority and policy to identify and set aside areas at Civil Works projects for the reburial of Native American remains found on Corps-administered lands.

Such a need was first recognized in Section 208 of the Water Resources Development Act (WRDA) of 2000 which states that,

“In consultation with affected Indian tribes, the Secretary may identify and set aside areas at civil works projects of the Department of the Army that may be used to rebury Native American remains that:

- (1) have been discovered on project land; and
- (2) have been rightfully claimed by a lineal descendant or Indian tribe in accordance with applicable Federal law”<sup>1</sup>.

Public Law No. 106-541 § 208; 33 U.S.C. § 2338 Section 208 of WRDA 2000 further discusses the recovery and reburial, at government expense, of Native American remains that were discovered on Civil Works project land and have been rightfully claimed by a lineal descendant or Indian tribe. The law allows the Secretary to convey specified “cemetery” lands to Indian tribes under certain conditions. If conveyed, the Secretary retains any necessary right-of-way, easement, or other property interest that the Secretary determines necessary to carry out the authorized purposes of the project.

USACE provided initial implementation guidance to all Major Subordinate Commands (MSCs) on 1 May 2001, with supplemental guidance issued on 15 January 2003. To ensure equitable treatment and consistent interpretation of Section 208 guidance throughout all of its districts, Northwestern Division (NWD) has developed this implementation plan. It will also serve as a current status report of accomplishments to date, will help identify future needs, and will define those steps necessary to address those needs.

At the discretion of each District, reburial sites may be designated before or after a specific need is demonstrated. The process that follows would be appropriate for either circumstance. This designation will be accomplished in consultation with Native

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<sup>1</sup> Documentation of remains rightfully claimed may include but is not limited to documentation of repatriation under NAGPRA (i.e., Notice of Intent to Repatriate or Notice of Intended Disposition), or other federal law.

American Tribes whose ceded lands and traditional use lands are within the general area of the potential reburial sites. However, it is anticipated that the Districts will prioritize their efforts on areas that have previously been used as reburial sites. Should a federally recognized tribe approach the Corps with a need for reburial of Native American remains that have been recovered from or discovered on project land and have been rightfully claimed by a lineal descendant or Indian tribe in accordance with Federal law, then the Corps will initiate the following consultation process in an effort (1) to identify federal property that could be set aside for the subject reburial or (2) to begin the reburial process.

Under WRDA Section 208, it is possible to rebury remains repatriated by other agencies or institutions if these remains originally came from Corps lands (prior to or after Corps purchase) and have been rightfully claimed.

## **II. SECTION 208, TRIBAL CONSULTATION REQUIREMENTS.**

### **A. Required References.**

1. Pub. L. No. 106-541 § 208; 33 U.S.C. § 2338
2. Memorandum: Initial Implementation Guidance for Section 208 of the Water Resources Development Act of 2000; dated 11 May 2001.
3. Memorandum: Supplemental Implementation Guidance for Section 208 of the Water Resources Development Act of 2000; dated 15 January 2003
4. White House Memorandum, Government-to-Government Relations, 29 April 1994.
5. CECW PGL 57, Indian Sovereignty and Government-to-Government Relations with Indian Tribes, 18 February 1998, USACE Tribal Policy Principles.
6. NWDR 5-1-1, Northwestern Division Native American Policy, 15 August 2001
7. DA Pamphlet 200-4, Cultural Resources Management, Appendix F, Guidelines for Army Consultation with Native Americans, 1 October 1998.
8. DOD American Indian and Alaska Native Policy, 20 October 1998.
9. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, 6 November 2000.

### **B. Tribal Consultation and Coordination Requirements.**

The District shall provide an effective process to allow recognized representatives of affected Indian tribal governments to provide meaningful and timely input in the development of policies on matters that significantly affect protected tribal resources, tribal rights, or Indian lands. [CECW PGL 57, Indian Sovereignty and Government-to-Government Relations with Indian Tribes, 18 February 1998, USACE Tribal Policy Principles; DOD American Indian and Alaska Native Policy, 20 October 1998]

1. In recognition of tribes' inherent sovereignty, the consultation process will begin early in the process and be consistent with government-to-government relations and protocols.
2. Good faith consultation will occur throughout the decision-making process.
3. Effective standard operating procedures will be established to facilitate communication, coordination, and cooperation with tribes, especially at the tribal leadership-to-District commander level and the tribal-staff-to-District staff levels.

### **III. STRATEGY FOR ESTABLISHMENT OF REBURIAL AREAS.**

Within 30 days of identification of a need, the affected District in coordination with the District tribal liaison, and with assistance from District cultural resources staff, will assemble a Project Delivery Team (PDT), in accordance with the Corps Project Management Business Process (PMBP). The PDT may also include staff from real estate, planning, counsel, and operations and any other appropriate District office. The PDT will define potential reburial area(s), prepare and transmit information on potential reburial area(s) to tribes, conduct administrative duties related to this plan, and coordinate consultation and tours of potential reburial areas with the interested tribe(s). The PDT will conduct all required work and documentation in a timely manner to facilitate tribal reburial schedules.

**A. Define potential reburial areas.** The affected District will recommend one or more potential reburial areas based upon the following criteria.

1. proximity to original burial/disinterment area
2. flood susceptibility and location above the flood pool level
3. ease of digging for reburial
4. restrictions on public access
5. current land use and no anticipated change in current use
6. ease of access
7. adequate land area to accommodate anticipated burials
8. disposition of ceded lands
9. view shed
10. proximity to areas with a history of looting

**B. Prepare information packet of potential reburial areas**—The PDT will ensure the following information is addressed for each potential area.

1. map of the area
2. size (e.g., five acres)
3. normal pool elevation and flood risk
4. description: topography, soil type, flora, fauna, distance to roads and public areas
5. present land classification
6. advantages and disadvantages of the particular site

7. site priority for use as determined by manager
8. description of any other affected land managing agency
9. known historic properties; need for field investigations
10. photographs and/or videotapes

**C. Transmit information to tribes.** The PDT will provide written documentation of potential reburial sites to the affected federally recognized tribe(s) prior to setting up a consultation meeting.

**D. Consultation with Federally Recognized Tribes.** Once an initial consultation meeting is established, a mutually agreed-upon agenda will be provided to all anticipated participants. During the meeting all previously provided information will be reviewed and discussed. Any additional burial areas recommended by the tribes should also be discussed at this meeting. If tribes request, the District will conduct a tour of the potential reburial area(s). A consideration to be shared with the tribes is that districts face shortages in staff and funds to protect and manage its lands. All consultation will be done in accordance with the laws, policies and regulations listed in II.A, above.

**E. Draft Memorandum of Understanding.** At the completion of consultation a draft memorandum of understanding (MOU) shall be completed to clearly designate the decisions that have been agreed upon by each party regarding reburial sites. This agreement shall generally follow the format laid out in the template MOU (Appendix 1), as modified by mutual agreement of the parties. The MOU will outline procedures, restrictions, and timelines to be followed in the reburial process. It is the intent that the Commander from the affected district and the Chairman, or designated leader, of the respective Tribe will sign the final MOU. ***Prior to finalization of the MOU, the PDT will ensure the following requirements are completed.***

**1. National Historic Preservation Act, Section 106 Compliance.** A district archeologist, and tribal representative if appropriate, shall follow the appropriate district process to survey the chosen site according to the requirements of Section 106 of the National Historic Preservation Act. During archeological fieldwork, GIS coordinates of the locality shall be recorded. The coordinates and results of the survey shall be shared with the affected tribe(s), Tribal Historic Preservation Officer(s), and if required, the appropriate State Historic Preservation Officer.

**2. Documentation of Land Classification Change.** The affected District will prepare a supplement to the project Master Plan for approval to appropriately classify the site chosen. Corps Real Estate office and GIS specialist will be notified of this land classification change. For example, the Master Plan classification may be changed to an Environmentally Sensitive Area (i.e., one with scientific, ecological, cultural, or aesthetic features), and the management strategy may be to protect the sensitive area through the prohibition of agriculture, grazing, and development. A proposed paragraph could be as follows.

This six-acre area is zoned as Environmentally Sensitive due to the environmental significance and sensitivity of the area. All public use or Corps/agency activities that may disturb or remove the soils, forest or other vegetative cover of this area are prohibited.

In addition, the location of the reburial area should be kept confidential, and appropriate SHPOs, or THPOs, if required, should agree to keep the location confidential. [16 U.S.C. § 470w-3(a)].

**F. Final Memorandum of Understanding.** Upon completion of the required elements, a Final MOU for each reburial area will be completed. The Commander from the affected District and the Chairman, or designated leader, of the respective Tribe will sign the final MOU, which will outline procedures, restrictions, and time lines to be followed for the designated reburial area, including:

1. general procedures which may include access to the reburial area by parties and other procedures specific to the locality (See Section IV. Real Estate Requirements);
2. restrictions, if any, relating to the reburial area, including but not limited to restrictions relating to proposed changes from current land use in the reburial area, maintenance restrictions, and restrictions regarding the marking of grave sites;
3. security of the reburial area;
4. long-term coordination with Tribe or Tribes; and,
5. confidentiality agreement (See Section III.G).

**G. Confidentiality Agreements.** A confidentiality clause will be included in the MOU developed for each reburial site. The clause shall stipulate that location of the reburials shall not be disclosed to the public, and shall only be disclosed to those agency employees who have a need to know. Access to such proprietary information will be limited to appropriate federal agency employees as defined by the law, and SHPO/THPO, if required.

#### IV. REAL ESTATE REQUIREMENTS.

**A. Retention Requirements.** If the Corps retains fee title to the reburial area, the MOU will specify how the following items, if applicable, will be managed:

1. Security
2. Monitoring
3. Protection
4. Improvement
5. Access and use

**B. Perpetual Easements.** Another method of conveyance would be to grant a *perpetual easement* to an Indian tribe. This may be accomplished in conjunction with the

Corps' retention of the land, per V.A. above. In this case, specific provisions regarding management of the property would be specified in an MOU or included in the easement document itself.

**C. Conveyance Requirements.** Section 208 provides that “the Secretary may convey to an Indian tribe for use as a cemetery an area at a civil works project that is identified and set aside by the Secretary.” Should conveyance be necessary or preferred, an agreement shall be negotiated to convey the identified property in *fee simple title* to an Indian tribe. This transfer will be completed in compliance with applicable federal laws. If land is conveyed in fee simple title, then the Corps should retain only those property interests necessary to carry out the authorized purposes of the project; i.e., rights-of-way or easements. No on-going maintenance, security, or protection requirements will be assumed by the Corps for conveyed properties.

## **V. IMPLEMENTATION OF REQUESTS FOR REBURIAL.**

Most likely, tribal requests for use of established burial areas will be submitted to the District through a number of key District personnel—e.g., Commander, Tribal Liaison, cultural resources staff, operations staff. All requests will be forwarded to the District's tribal liaison for initial action. The tribal liaison will coordinate with staff from cultural resources, operations, real estate, and office of counsel to ensure the District has the necessary information to respond positively to the request. Necessary information includes a map indicating the location of the site from which the materials were recovered and verification that the location is within the boundaries of the district's fee-title lands, either current or previous boundaries. It is also necessary that the materials have been rightfully claimed by a lineal descendant or Indian tribe in accordance with applicable Federal law. This includes remains repatriated by other agencies or institutions.

**A. Necessary Documentation.** Once approved and an MOU has been completed for the reburial location, the Corps will follow the process outlined in the MOU, including consultation with the affected tribes(s) to discuss particular details of reburial. If approved and there is no reburial location MOU in place, then the affected District will either complete the MOU or consult with the affected Tribe(s) to outline the procedures, restrictions, and schedule for this specific reburial. If a District has been using an area for reburial that has not yet been formally designated as a Section 208 reburial location through the MOU process, a Project Management Plan (PMP), see V.B., below, must be in place prior to additional reburials. In the interest of time, a PMP will allow the burial action to proceed until a MOU can be finalized. Ultimately, an MOU will be developed for every formal reburial *area*, and a PMP will be developed for each *use* of that reburial area. This requirement becomes effective upon finalization of this plan.

In addition to the MOU and PMP, the affected District (usually the District archeologist or NAGPRA coordinator) shall maintain copies of any relevant draft or final “Notices of Inventory Completion” and/or “Notices of Intent to Repatriate,” or any other NAGPRA documentation needed to supplement the Section 208 documents.

**B. Project Management Plan.** As described above and in addition to the MOU for each reburial area with the affected Tribe(s), each reburial (i.e., each use of a particular reburial area) will require a Corps internal Project Management Plan (PMP). The PMP may include the following.

1. A detailed description of the process and specific collection to be reburied.
2. Description and sequential list of specific tasks and procedures with a time line. The time line will identify the amount of time in work days and describe whether the procedure will be undertaken concurrently or subsequently to other tasks.
3. Communication plan.
4. Team list describing specific responsibilities.
5. A line-item budget for specific costs such as labor, materials, and travel (See V.C.).

Additionally, the affected District (usually the District Archeologist or NAGPRA coordinator) shall maintain copies of any relevant draft or final "Notices of Inventory Completion" and/or "Notices of Intent to Repatriate," or any other NAGPRA documentation needed for cultural resources management.

**C. Costs.** The District shall prepare a cost estimate for each reburial action which will be included as part of each PMP. The estimate will consist of a break down that identifies the appropriate cost elements allowed by law. The affected District may be responsible for the following costs.

1. Costs of coordination.
2. Physically reburying the remains (e.g. large machinery and personnel needed for excavation).
3. Reasonable costs for reburial items such as boxes and blankets.
4. Travel and per diem for Corps employees and Tribal representatives (the number of tribal representatives would be determined during preparation of decision documents).

## **VI. POINTS OF CONTACT.**

The central point of contact for Section 208 reburial activities is the District tribal liaison. The tribal liaison is responsible for keeping a current list of tribal contacts for each reburial area. The tribal liaison will ensure that inquiries are directed to the appropriate Corps office or specialist for timely completion of actions under this plan.

## **VII. INFORMATION MANAGEMENT**

Each District shall maintain a current list of reburial areas designated within project lands and reburials completed, including dates of interment and identification of remains reburied (i.e., site number or other collection identification name or number). As this list is updated, it will be forwarded to the appropriate affected tribe or tribes. This information will be housed with the District archeologist or NAGPRA coordinator in a secure location protected from public access. The list and its contents shall only be disclosed to authorized tribal representatives and upon prior notification to the tribe, to Army Corps of Engineers employees who have a need to know the information.

## **VIII. DEFINITIONS**

“Indian Tribe” means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

“Reburial Area” means in consultation with affected Indian tribes, the Secretary may identify and set aside areas at civil works projects of the Department of the Army that may be used to rebury Native American remains that (A) have been discovered on project land; and (B) have been rightfully claimed by a lineal descendant or Indian tribe in accordance with applicable Federal law.



## Appendix 1

## Sample MOU

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE  
U.S. ARMY ENGINEER DISTRICT, XXX  
AND THE  
XXX TRIBE  
FOR  
THE FINAL DESIGNATION OF A REBURIAL AREA ON DISTRICT FEE-TITLE  
LANDS AT  
PROJECT XXXX**

This Memorandum of Understanding (hereafter MOU) is entered into by and between the U.S. Army Engineer District XXX (hereafter District) and the XXX Tribe (hereafter Tribe) under the authority of Section 208 of the Water Resources Development Act of 2000, Public Law 106-541 (for reburial area), and 43 CFR 10.5(f) (for entering into an agreement with the tribes).

**WHEREAS**, the District will facilitate the reburial of Native American human remains and funerary objects at (LOCATION) and these Native American human remains and funerary objects were unearthed from District fee-title lands at (LOCATION) over a period of years and are now subject to the requirements of the Native American Graves Protection and Repatriation Act (NAGPRA);

**WHEREAS**, this MOU is limited in scope to solely to the designation and use of a reburial site for Native American human remains and funerary objects unearthed from District fee-title lands at (LOCATION) and nothing in this document or the actual designation of a reburial site conveys a property right (except to the human remains and funerary objects reburied); and

**WHEREAS**, the (PROJECT) Operations Manager has determined that a XXX-acre parcel of the XXX area (see Appendix A) can be used for reburial of Native American human remains and funerary objects;

**NOW, THEREFORE**, the parties agree that the reburial of Native American human remains and funerary objects may be implemented in accordance with this agreement.

**A. Definitions**

For the purpose of this MOU, the following definitions shall apply (Native American Graves Protection and Repatriation Act, 25 U.S.C. § 3001 Section 2, unless otherwise indicated).

1. Cultural affiliation “means that there is a relationship of shared group identity which can be reasonably traced historically or prehistorically between a present-day Indian tribe...and an identifiable earlier group.”

2. Cultural items mean human remains and/or the following.

(a) Associated funerary objects means “objects that, as a part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later, and both the human remains and associated funerary objects are presently in the possession or control of a Federal agency or museum, except that other items exclusively made for burial purposes or to contain human remains shall be considered as associated funerary objects.”

(b) Unassociated funerary objects means “objects that, as a part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later, where the remains are not in the possession or control of the Federal agency or museum and the objects can be identified by a preponderance of the evidence as related to specific individuals or families or to known human remains or, by a preponderance of the evidence, as having been removed from a specific burial site of an individual culturally affiliated with a particular Indian tribe.”

(c) Sacred objects means “specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents.”

3. Federal lands means “any land other than tribal lands which are controlled or owned by the United States.”

4. Indian tribe means “any tribe, band, nation, or other organized group or community of Indians..., which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.”

5. Inadvertent discovery means “the unanticipated encounter or detection of human remains, funerary objects, sacred objects, or objects of cultural patrimony found under or on the surface of federal or tribal land”[43 CFR Part 10.2 (g)(4)].

## B. Stipulations

The District will ensure that the following stipulations are implemented.

1. All reburial activities shall be coordinated with the Operations Manager and District Engineer, or their designated representative.
2. The reburial area, including the XXX-acre field surrounding it, has been zoned as environmentally sensitive.
3. All reburials will be plotted on a master document that will be maintained by the District with copies maintained by the (PROJECT) Operations Manager and Tribe(s).
4. The reburial site will not exceed the XXX-acre area. If more land is needed in the future, the (PROJECT) Operations Manager, District personnel, and tribal representatives will modify the size of the current reburial area, and the MOU will be modified accordingly.
5. Members of the Tribe, approved Tribal employees and guests, and authorized U.S. Army Corps of Engineers personnel will be allowed vehicle access to the reburial site with the written approval of the Operations Manager or the designated representative. Tribal members need only to contact the Operations Manager to make arrangements to access the area. Members of the Tribe, their employees and guests can expect a reasonable degree of privacy and solitude while visiting the reburial site.
6. There will be no signs indicating the area is a burial site.
7. The District has no plans to use the designated site as anything other than the XXX area for which it is now designated. All remains will be located below the plow zone to prevent damage or re-exposure of the remains. No property right is conveyed by this MOU. The District reserves the right to change the use of the designated reburial area only after good-faith consultation with the affected tribe(s).
8. Tribal members will be allowed access to the area during normal operating hours. If tribal members wish to use the area after operating hours, they must notify the Operations Manager, the District Engineer, or his designated representative at least 72 hours in advance so access arrangements can be made.
9. Existing (PROJECT) roads, bridges, piers, utilities, buildings, and/or other facilities damaged by visitors to the reburial site shall be repaired or replaced by the visitor as directed without cost to (PROJECT) or, at the option of the Operations Manager, may be repaired by the project personnel and the cost reimbursed by the visitor. Damaged items shall be restored to their "before-damaged" condition.

10. Native American human remains originally recovered from District projects lands may be buried at the designated site, under the following conditions: (a) the District or other Federal agency or museum has completed its obligations under NAGPRA; (b) one or all of the tribes that may have cultural affiliation have been deemed to be the proper recipient under NAGPRA (see Appendix B for list of all tribes); and (c) the capacity of the site has not been exceeded, as determined by the District in consultation with the Tribe(s)

11. Native American human remains and funerary objects inadvertently discovered in the future at (PROJECT) may be buried at the designated site, under the following conditions: (a) District has completed its obligations under NAGPRA; (b) one or all of the tribes that may have cultural affiliation have been deemed to be the proper recipient under NAGPRA (see Appendix B for list of all tribes); and (c) the capacity of the site is not exceeded, as determined by the District.

#### C. Ownership and Disposition

Disposition and custody of Native American human remains, associated and unassociated funerary objects, sacred objects, and objects of cultural patrimony shall be determined in accordance with 25 U.S.C. § 3002 and 43 C.F.R. § 10.6, 10.10, and 10.14.

#### D. Transfer of Native American Human Remains and Objects

1. Procedures for transfer of custody shall follow 43 C.F.R. § 10.6 and 10.10 and shall include consultation with the appropriate tribe(s). Procedures for special requests unique to a specific set of remains may be agreed upon on an individual basis through consultation.
2. An opportunity for appropriate tribal religious ceremonies will be offered at the place of transfer and the reburial at (PROJECT).
3. Project and District personnel will coordinate with the tribes on a transfer date.
4. Tribes shall provide any special materials to prepare the remains for transfer.
5. An inventory of the Native American human remains and objects will be performed prior to transfer to assure that all remains and objects are accounted for. Tribal members can be present during this inventory.
6. A receipt of transfer will be signed by both parties (Corps and Tribal representative) acknowledging that all items agreed upon were transferred to the tribal representative.

#### E. Transfer of Reburial Area to Tribes

Prior to the sale or transfer of the land described in Appendix A to a non-federal agency, the Secretary of the Army will give the Secretary of the Interior the right of first refusal, after consultation with appropriate Indian tribes, to accept any such lands. Upon such acceptance, the Corps shall transfer these lands in adherence to the rules and regulations of the U.S. Army Corps of Engineers pertaining to the transfer of real property. The authority to convey this property can be found in the Water Resources Development Act of 2000 in Section 208 Reburial and Conveyance Authority, in Section (c)(1)(2), and in Guidance Letter dated May 2001, paragraph 5.

#### F.. Liability

The Tribe agrees to indemnify and hold harmless the Government, its employees, and agents against all suits, actions, claims, costs, or demands (including, without limitation, suits, actions, claims, costs, or demands resulting from death, personal injury, and property damage) arising or resulting from any visit made to the reburial site or in connection with this MOU, except to the extent that such death, personal injury, or property damage arises from the intentional acts or negligence of employees of the U.S. Army Corps of Engineers.

#### G. Security Requirements

1. Tribal visitors shall stop at the Project Office and notify project personnel of their visit to the reburial location prior to being allowed to visit the site.
2. Security patrols of this area will remain as they are.
3. Tribal visitors are required to immediately report to the Project Office any trespassers or damages to the reburial area and/or grave sites.
4. Vehicle visitation beyond the locked gate will be limited to tribal members, their approved guests, and authorized U.S. Army Corps of Engineers personnel.

#### H. Duration

1. This MOU will continue in full force for 25 years commencing with the execution of this agreement. The U.S. Army Corps of Engineers, XXX District Commander will sign the MOU last.
2. Upon providing at least 30 days' written notice to all other parties to the MOU, any party can withdraw from the MOU. The MOU will still be in force for all other parties.
3. The District and the Tribe enter into this MOU with the understanding that these terms are based on the current mission of the project. Upon any proposed change in the project's mission, the District agrees to promptly notify the Tribe.

The District reserves the right to renegotiate the terms of this MOU as needed. The Tribe agrees to negotiate in good faith regarding such proposed modifications.

#### I. Resolution of Disputes

As a condition precedent to a party bringing any suit for breach of this MOU, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through the dispute resolution procedures set forth in this paragraph. In the event the parties disagree over reburial practices or other issues, they shall first attempt to resolve such conflict informally and through negotiation among the staff of the affected parties. It is incumbent upon both parties to notify the other party when an impasse is reached. If agreement cannot be reached, the matter shall be submitted to the Commander, U.S. Army Engineer District, XXX, and the respective tribal chairperson(s) for resolution. If the Commander and the tribal chairperson(s) are unable to reach agreement, the matter shall be submitted to the Commander, Northwestern Division, and the respective tribal council for resolution. Nothing in this paragraph shall be construed to waive either party's rights at law or in equity.

#### J. Confidentiality

All information regarding the location of the reburial site, the human remains and/or objects reburied at the site, and the manner of reburial shall be kept confidential. The District agrees not to disclose such information to any person or entity except for authorized representatives of the Tribe(s) and U.S. Army Corps of Engineers employees who have a need to know the information for security purposes.

AGREED:

Tribe

U.S. Army Engineer District

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Colonel, U.S. Army  
District Engineer

Date Signed: \_\_\_\_\_

Date Signed: \_\_\_\_\_